

## Federal Communications Commission

## §76.1513

effective until approval has been given by the Office of Management and Budget.

### §76.1512 Programming information.

(a) An open video system operator shall not unreasonably discriminate in favor of itself or its affiliates with regard to material or information (including advertising) provided by the operator to subscribers for the purpose of selecting programming on the open video system, or in the way such material or information is provided to subscribers.

NOTE TO PARAGRAPH (a): "Material or information" as used in paragraph (a) of this section means material or information that a subscriber uses to actively select programming at the point of program selection.

(b) In accordance with paragraph (a) of this section:

(1) An open video system operator shall not discriminate in favor of itself or its affiliate on any navigational device, guide or menu;

(2) An open video system operator shall not omit television broadcast stations or other unaffiliated video programming services carried on the open video system from any navigational device, guide (electronic or paper) or menu;

(3) An open video system operator shall not restrict a video programming provider's ability to use part of the provider's channel capacity to provide an individualized guide or menu to the provider's subscribers;

(4) Where an open video system operator provides no navigational device, guide or menu, its affiliate's navigational device, guide or menu shall be subject to the requirements of Section 653(b)(1)(E) of the Communications Act;

(5) An open video system operator may permit video programming providers, including its affiliate, to develop and use their own navigational devices. If an open video system operator permits video programming providers, including its affiliate, to develop and use their own navigational devices, the operator must create an electronic menu or guide that all video programming providers must carry containing a non-discriminatory listing of programming providers or programming services available on the

system and informing the viewer how to obtain additional information on each of the services listed;

(6) An open video system operator must grant access, for programming providers that do not wish to use their own navigational device, to the navigational device used by the open video system operator or its affiliate; and

(7) If an operator provides an electronic guide or menu that complies with paragraph (b)(5) of this section, its programming affiliate may create its own menu or guide without being subject to the requirements of Section 653(b)(1)(E) of the Communications Act.

(c) An open video system operator shall ensure that video programming providers or copyright holders (or both) are able to suitably and uniquely identify their programming services to subscribers.

(d) An open video system operator shall transmit programming identification without change or alteration if such identification is transmitted as part of the programming signal.

[61 FR 28708, June 5, 1996, as amended at 61 FR 43177, Aug. 21, 1996]

EFFECTIVE DATE NOTE: At 61 FR 43177, Aug. 21, 1996, in §76.1512, paragraphs (b), (c) and (d) were revised. This amendment contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### §76.1513 Open video dispute resolution.

(a) *Complaints.* Any party aggrieved by conduct that it believes constitute a violation of the regulations set forth in this part or in section 653 of the Communications Act (47 U.S.C. 573) may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The Commission shall resolve any such dispute within 180 days after the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in §76.7 of this part with the following additions or changes.

(b) *Alternate dispute resolution.* An open video system operator may not provide in its carriage contracts with